

**SUBCHAPTER D: OPERATIONAL STANDARDS FOR MUNICIPAL
SOLID WASTE LANDFILL FACILITIES**

**§§330.121, 330.123, 330.125, 330.127, 330.129, 330.131, 330.133, 330.135, 330.137, 330.139,
330.141, 330.143, 330.145, 330.147, 330.149, 330.151, 330.153, 330.155, 330.157, 330.159,
330.161, 330.163, 330.165, 330.167, 330.169, 330.171, 330.173, 330.175, 330.177, 330.179
Effective March 27, 2006**

§330.121. General.

(a) The approved site development plan, the site operating plan, the final closure plan, the post-closure maintenance plan, the landfill gas management plan, and all other documents and plans required by this chapter shall become operational requirements and shall be considered a part of the operating record of the facility. Any deviation from the permit and incorporated plans or other related documents associated with the permit is a violation of this chapter.

(b) To the extent that a requirement has been changed by the rule amendments that became effective December 2, 2004 (2004 Revisions), the facility may continue to operate under requirements contained in previously issued authorizations, except as provided by this subchapter. The landfill permittee is under an obligation to apply for a permit modification in accordance with §305.70(k) of this title (relating to Municipal Solid Waste Permit and Registration Modifications), as applicable, to incorporate the 2004 Revisions. A permittee's application to modify its permit in accordance with the executive director's schedule will be processed as a modification and any subsequent applications will be processed in accordance with Chapter 305, Subchapter D of this title (relating to Amendments, Renewals, Transfers, Corrections, Revocation, and Suspension of Permits). The executive director will determine a schedule for landfill permittees to submit an application to modify their permit to conform to the 2004 Revisions. Timely submission of a request for a permit modification qualifies the owners or operators of existing permits to operate under requirements contained in the existing permit. Landfill permit applications that were pending December 2, 2004, are subject to the former rules unless an applicant elects to proceed under the rules that became effective December 2, 2004.

(c) To the extent that requirements of this subchapter have been changed by the comprehensive rule revisions in this chapter as adopted in 2006 (2006 Revisions), a landfill permittee may continue to operate under an existing permit and is not required to apply to modify or amend an existing permit to comply with the 2006 Revisions. The requirements of §330.165(d)(4) of this title (relating to Landfill Cover) supersede any inconsistent provisions contained in existing permits.

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§330.123. Pre-Operation Notice.

The owner or operator shall provide written notice in the form of a soil liner evaluation report as described in §330.341 of this title (relating to Soil Liner Evaluation Report and Geomembrane Liner Evaluation Report) of the final construction and lining of a new disposal area (sector) to the executive director for review 14 days prior to the placement of waste. The executive director has 14 days to provide a verbal or written response. If by the end of the 14th day following the executive director's

receipt of the report no comments are received, the operator may begin placing waste. This provision is not applicable to the initial opening of a municipal solid waste landfill.

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§330.125. Recordkeeping Requirements.

(a) A copy of the permit, the approved site development plan, the site operating plan, the final closure plan, the post-closure maintenance plan, the landfill gas management plan, and any other required plan or other related document shall be maintained at the municipal solid waste facility, or an alternate location approved by the executive director. This requirement shall be considered a part of the operating record for the facility.

(b) The owner or operator shall within seven working days of completion or receipt of analytical data, as appropriate, record and retain in the operating record the following information:

- (1) any and all location-restriction demonstrations;
- (2) inspection records, training procedures, and notification procedures relating to excluding the receipt of prohibited waste;
- (3) all results from gas monitoring and any remediation plans relating to explosive and other gases;
- (4) any and all unit design documentation for the placement of leachate or gas condensate in a municipal solid waste landfill;
- (5) any and all demonstration, certification, findings, monitoring, testing, and analytical data relating to groundwater monitoring and corrective action;
- (6) closure and post-closure care plans and any monitoring, testing, or analytical data relating to post-closure requirements;
- (7) any and all cost estimates and financial assurance documentation relating to financial assurance for closure and post-closure;
- (8) any and all information demonstrating compliance with the small community exemption criteria;
- (9) copies of all correspondence and responses relating to the operation of the facility, modifications to the permit, approvals, and other matters pertaining to technical assistance;
- (10) any and all documents, manifests, shipping documents, trip tickets, etc., involving special waste;

(11) for any spray-applied alternative daily cover (ADC) material, records of the application rate and total amount ADC applied to the working face on those days in which ADC is applied; and

(12) any other document(s) as specified by the approved permit or by the executive director.

(c) The owner or operator shall place all information specified in subsections (a) and (b) of this section in the operating record. The owner or operator shall place this information in the operating record in accordance with the time period specified in subsection (b) of this section and maintain the operating record in an organized format which allows the information to be easily located and retrieved. All information contained in the operating record must be furnished upon request to the executive director and must be made available for inspection by the executive director.

(d) The owner or operator shall retain all information contained within the operating record and the different plans required for the facility for the life of the facility including the post-closure care period.

(e) The owner or operator shall maintain training records in accordance with §335.586(d) and (e) of this title (relating to Personnel Training).

(f) The owner or operator shall maintain personnel operator licenses issued in accordance with Chapter 30, Subchapter F of this title (relating to Municipal Solid Waste Facility Supervisors), as required.

(g) The executive director may set alternative schedules for recordkeeping and notification requirements as specified in subsections (a) - (f) of this section, except for notification requirements contained in Subchapter M of this chapter (relating to Location Restrictions) for any proposed lateral expansion located within a six-mile radius of any airport runway end used by turbojet or piston-type aircraft or notification relating to landowners whose property overlies any part of the plume of contamination, if contaminants have migrated off site as indicated by groundwater sampling.

(h) The owner or operator shall maintain records to document the annual waste acceptance rate for the facility. Documentation must include maintaining the quarterly solid waste summary reports and the annual solid waste summary reports required by §330.675 of this title (relating to Reports) in the operating record. After an updated site operating plan permit modification under §330.121(b) of this title (relating to General) is approved to comply with the rules that became effective December 2, 2004, if the annual waste acceptance rate exceeds the rate estimated in the landfill permit application and the waste increase is not due to a temporary occurrence, the owner or operator shall file an application to modify the permit application, including the revised estimated waste acceptance rate, in accordance with §305.70(k) of this title (relating to Municipal Solid Waste Permit and Registration Modifications), within 90 days of the exceedance as established by the sum of the previous four quarterly summary reports. The application must propose any needed changes in the site operating plan to manage the increased waste acceptance rate to protect public health and the environment. The increased waste acceptance rate may justify requiring permit conditions that are different from or absent

in the existing permit. This subsection is not intended to make an estimated waste acceptance rate a limiting parameter of a landfill permit.

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§330.127. Site Operating Plan.

A site operating plan must include provisions for site management and the site operating personnel to meet the general and site-specific requirements of this subchapter. A site operating plan must be retained during the active life of the facility and throughout the post-closure care maintenance period. A site operating plan must include the following:

- (1) a description of functions and minimum qualifications for each category of key personnel to be employed at the facility and for the supervisory personnel in the chain of command;
- (2) a description, including the minimum number, size, type, and function, of the equipment to be utilized at the facility based on the estimated waste acceptance rate and other operational requirements, and a description of the provisions for back-up equipment during periods of breakdown or maintenance of this listed equipment;
- (3) a description of the general instructions that the operating personnel shall follow concerning the operational requirements of this subchapter;
- (4) identification of applicable training requirements under §335.586(a) and (c) of this title (relating to Personnel Training) that shall be followed;
- (5) procedures for the detection and prevention of the disposal of prohibited wastes, including regulated hazardous waste as defined in 40 Code of Federal Regulations (CFR) Part 261, and of polychlorinated biphenyls (PCB) wastes as defined in accordance with 40 CFR Part 761 unless authorized by the United States Environmental Protection Agency. The detection and prevention program must include the following:
 - (A) procedures to be used by the owner or operator to control the receipt of prohibited waste. The procedures must include the random inspections of incoming loads and must include the inspection of compactor vehicles. In addition to the random inspections, trained staff shall observe each load that is disposed at the landfill;
 - (B) records of all inspections;
 - (C) training for appropriate facility personnel responsible for inspecting or observing loads to recognize prohibited waste;
 - (D) notification to the executive director, and any local pollution agency with jurisdiction that has requested to be notified, of any incident involving the receipt or disposal of regulated hazardous waste or PCB waste at the landfill; and

(E) provisions for the remediation of the incident; and

(6) general instructions required to be included in the site operating plan by other sections of this subchapter.

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§330.129. Fire Protection.

The owner or operator shall maintain a source of earthen material in such a manner that it is available at all times to extinguish any fires. The source must be sized to cover any waste received for disposal not covered with six inches of earthen material. Sufficient on-site equipment must be provided to place a six-inch layer of earthen material to cover any waste not already covered with six inches of earthen material within one hour of detecting a fire. A site operating plan must contain calculations demonstrating the adequacy of the earthen material and to demonstrate that the type and number of equipment listed in the site operating plan will be able to transport the volume of earth required. The executive director may approve alternative methods of fire protection. The potential for accidental fires must be minimized by use of proper compaction and earthen material cover. A site operating plan must contain a fire protection plan that identifies the fire protection standards to be used at the facility and how personnel are trained. The operator must initiate procedures in accordance with the fire protection plan upon detection of a fire. For any municipal solid waste activity on a landfill that stores or processes combustible materials, such as solidification basins, brush collection areas, construction or demolition waste areas, composting areas, mulching areas, shredding areas, and used oil storage areas, the site operating plan must address fire protection measures specific to each individual activity. If a fire occurs that is not extinguished within ten minutes of detection, the commission's regional office must be contacted immediately after detection, but no later than four hours by telephone, and in writing within 14 days with a description of the fire and the resulting response.

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§330.131. Access Control.

Public access to all municipal solid waste facilities must be controlled by means of artificial barriers, natural barriers, or a combination of both, appropriate to protect human health and safety and the environment. Uncontrolled access to other operations located at a municipal solid waste facility must be prevented. The provisions for access control must be specified in the site operating plan. The preferred method of landfill access control is fences and gates. Regardless of the access control method, the site operating plan must include an inspection and maintenance schedule, notification to the commission's regional office of a breach, provisions for temporary and permanent repairs, and notification to the commission's regional office when a permanent access control breach repair is completed. The commission's regional office, and any local pollution agency with jurisdiction that has requested to be notified, must be notified of the breach within 24 hours of detection. The breach must be temporarily repaired within 24 hours of detection and must be permanently repaired by the time

specified to the commission's regional office when it was reported in the initial breach report. If a permanent repair can be made within eight hours of detection, no notice to the commission's regional office is required.

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§330.133. Unloading of Waste.

(a) The unloading of solid waste must be confined to as small an area as practical. The maximum size of the unloading area must be specified in the site operating plan. The number and types of unloading areas must be identified. A trained staff person shall be provided at all facilities to monitor all incoming loads of waste. A trained staff person shall also be on duty during operating hours at each area where waste is being unloaded to direct and observe the unloading of solid waste. The owner or operator is not required to accept any solid waste that the owner or operator determines will cause or may cause problems in maintaining full and continuous compliance with these sections. Small municipal solid waste landfill facilities may submit a request to receive approval for an alternative plan, if sufficient justification is provided.

(b) The unloading of waste in unauthorized areas is prohibited. Any waste deposited in an unauthorized area must be removed immediately and disposed of properly. Trained staff shall observe each load that is disposed at the landfill. The staff involved with unloading or inspection of waste shall have the authority and responsibility to reject unauthorized loads, have unauthorized material removed by the transporter, and/or assess appropriate surcharges, and have the unauthorized material removed by on-site personnel or otherwise properly managed by the facility. A record of unauthorized material removal must be maintained in the operating record.

(c) The unloading of prohibited wastes at the municipal solid waste facility must not be allowed. Prohibited wastes are listed in §330.15(e) of this title (relating to General Prohibitions). The permit issued to the municipal solid waste facility may also prohibit other wastes. Necessary steps shall be taken by the owner or operator to ensure compliance with this provision. Any prohibited waste must be returned immediately to the transporter or generator of the waste or otherwise properly managed by the landfill.

(d) Any Type I or Type IAE landfill facility may establish a brush and construction or demolition waste area on site that is designated to receive brush and construction or demolition waste.

(e) At Type IV landfills, only brush and construction or demolition waste and rubbish that are free of putrescible and household waste are allowed.

(f) In addition to the other operating requirements of this subchapter, Type IV landfill operators that accept rubbish shall provide the following during all periods of operation.

(1) A written procedure retained on site to ensure that containers with any putrescible wastes are not accepted. This might include or be a combination of a manifest system, surcharges, contractual agreements with transporters, or other acceptable means. This written procedure must be

made available for review by the executive director. The procedure must be followed and must be modified as necessary to accomplish its purpose.

(2) A written procedure retained on site for the removal of any putrescible wastes and other prohibited waste to an approved disposal facility must specify the means to be used for removal of putrescible wastes illegally disposed of at the landfill. In all cases, such wastes must be removed from the working face immediately upon discharge and returned to the offending transporter's vehicle or placed in suitable collection bins and must not be allowed to remain on the landfill in the collection bins for more than 24 hours. The equipment necessary to meet the chosen alternative must be specified and must be on site and operable during operating hours. This written procedure must be made available for review by the executive director. The procedure must be followed and must be modified as necessary to accomplish its purpose.

(3) A procedure whereby the transporter certifications required by §330.7(c) of this title (relating to Permit Required) must be retained at the landfill and be available for inspection by the executive director.

(g) Type IV landfill owners or operators shall not accept wastes from completely enclosed containers or enclosed vehicles except in accordance with §330.169 of this title (relating to Waste in Enclosed Containers or Enclosed Vehicles Accepted at Type IV Landfills).

(h) In addition to the requirements in §330.137 of this title (relating to Site Sign), Type IV landfill owners or operators shall identify wastes that are not allowed and state the landfill's requirements for transporters, such as certificates, manifests, and surcharges or other penalties that may be imposed in the event that transporters do not meet the requirements of this chapter.

(i) At Type VIII facilities, only used and scrap tires free of any other type of waste are allowed to be accepted.

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§330.135. Facility Operating Hours.

(a) A site operating plan must specify the waste acceptance hours and the facility operating hours when materials will be transported on or off site, and the hours when heavy equipment may operate. The waste acceptance hours of a municipal solid waste facility may be any time between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, unless otherwise approved in the authorization for the facility. Waste acceptance hours within the 7:00 a.m. to 7:00 p.m. weekday span do not require other specific approval. Transportation of materials and heavy equipment operation must not be conducted between the hours of 9:00 p.m. to 5:00 a.m., unless otherwise approved in the authorization for the facility. Operating hours for other activities do not require specific approval.

(b) In addition to the requirements of subsection (a) of this section, the permit may include alternative operating hours of up to five days in a calendar-year period to accommodate special occasions, special purpose events, holidays, or other special occurrences.

(c) The commission's regional offices may allow additional temporary waste acceptance or operating hours to address disasters, other emergency situations, or other unforeseen circumstances that could result in the disruption of waste management services in the area.

(d) A facility must record in the site operating record the dates, times, and duration when any alternative operating hours are utilized.

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§330.137. Site Sign.

Each facility must conspicuously display at all entrances through which wastes are received, a sign measuring at least four feet by four feet with letters at least three inches in height stating the type of site, the hours and days of operation, an emergency 24-hour contact phone number(s) that reaches an individual with the authority to obligate the facility at all times that the facility is closed, the local emergency fire department phone number, and the permit number or facility number. The facility sign must be readable from the facility entrance. The posting of erroneous or misleading information constitutes a violation of this section.

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§330.139. Control of Windblown Solid Waste and Litter.

The working face must be maintained and operated in a manner to control windblown solid waste. Windblown material and litter must be collected and properly managed in accordance with paragraphs (1) and (2) of this section to control unhealthy, unsafe, or unsightly conditions.

(1) Windblown waste and litter at the working face must be controlled by using engineering methods or measures, including portable panels, temporary fencing, and perimeter fencing or comparable engineering controls. A site operating plan must specify the means for confining windblown waste and litter.

(2) Litter scattered throughout the site, along fences and access roads, and at the gate must be picked up once a day on the days the facility is in operation and properly managed. A site operating plan must specify the means for complying with this requirement.

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§330.141. Easements and Buffer Zones.

(a) Easement protection. No solid waste unloading, storage, disposal, or processing operations shall occur within any easement, buffer zone, or right-of-way that crosses the site. No solid waste disposal shall occur within 25 feet of the center line of any utility line or pipeline easement, unless otherwise authorized by the executive director. All pipeline and utility easements must be clearly marked with posts that extend at least six feet above ground level, spaced at intervals no greater than 300 feet.

(b) Buffer zones. A minimum separating distance shall be maintained between solid waste processing and disposal activities within and adjacent to the facility boundary on property owned or controlled by the owner or operator as determined by the requirements of §330.543 of this title (relating to Easements and Buffer Zones). The buffer zone must provide for safe passage for fire-fighting and other emergency vehicles.

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§330.143. Landfill Markers and Benchmark.

(a) The owner or operator must maintain the visibility of all required landfill markers and the benchmark. The owner or operator shall inspect landfill markers on a monthly basis and maintain records of all inspections at the facility. The owner or operator shall replace markers within 15 days of removal, destruction, or a determination that the markers do not meet regulatory requirements.

(b) Landfill markers must be installed to clearly mark significant features. The executive director may modify specific marker requirements to accommodate unique site-specific conditions.

(1) All markers must be posts extending at least six feet above ground level. Markers must not be obscured by vegetation. Sufficient intermediate markers must be installed to show the required boundary. Markers must be installed at the following locations and color coded as follows:

- (A) black - facility boundary markers;
- (B) yellow - buffer zone markers;
- (C) green - easement and rights-of-way markers;
- (D) white - landfill grid system markers;
- (E) red - soil liner or geomembrane liner area markers; and
- (F) blue - 100-year flood protection markers.

(2) Facility boundary markers must be placed at each corner of the facility and along each boundary line at intervals no greater than 300 feet. Fencing may be placed within these markers as required.

(3) Markers identifying the buffer zone must be placed along each buffer zone boundary at all corners and between corners at intervals of no greater than 300 feet. Placement of the landfill grid markers may be made along a buffer zone boundary.

(4) Easement and right-of-way markers must be placed along the centerline of an easement and along the boundary of a right-of-way at each corner within the facility and at the intersection of the facility boundary.

(5) A landfill grid system must be installed at all solid waste landfill facilities unless written approval from the executive director has been received. The grid system must encompass at least the area expected to be filled within the next three-year period. Although grid markers must be maintained during the active life of the facility, post-closure maintenance of the grid system is recommended, but not required. Markers must be spaced no greater than 100 feet apart measured along perpendicular lines. Where markers cannot be seen from opposite boundaries, intermediate markers must be installed, where feasible.

(6) Soil liner or geomembrane liner area markers must be placed so that all areas for which a soil liner evaluation report or geomembrane liner evaluation report has been submitted are readily determinable. Such markers are to provide facility workers immediate knowledge of the extent of constructed disposal areas. These markers must be located so that they are not destroyed during operations until operations extend into the next constructed area. The location of these markers must be tied into the landfill grid system and must be reported on each soil liner evaluation report or geomembrane liner evaluation report submitted. Area markers must not be placed inside constructed areas.

(7) Flood protection markers must be installed for any area within a solid waste disposal facility that is within the 100-year floodplain. The area subject to flooding must be clearly marked by means of permanent posts not more than 300 feet apart or closer if necessary to retain visual continuity.

(8) A permanent benchmark must be established at the facility in an area of the facility that is readily accessible and will not be used for disposal. This benchmark must be a bronze survey marker set in concrete and must have the benchmark elevation and survey date stamped on it. The benchmark elevation must be surveyed from a known United States Coast and Geodetic Survey benchmark or other reliable benchmark.

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§330.145. Materials Along the Route to the Site.

A facility owner or operator shall take steps to encourage that vehicles hauling waste to the facility are enclosed or provided with a tarpaulin, net, or other means to effectively secure the load in order to prevent the escape of any part of the load by blowing or spilling. The owner or operator shall take actions such as posting signs, reporting offenders to proper law enforcement officers, adding surcharges, or similar measures. On days when the facility is in operation, the owner or operator shall be responsible for at least once per day cleanup of waste materials spilled along and within the right-of-way of public access roads serving the facility for a distance of two miles in either direction from any entrances used for the delivery of waste to the facility. The facility operator shall consult with the Texas Department of Transportation, county, and/or local governments with maintenance authority over the roads concerning cleanup of public access roads and rights-of-way. An alternative clean-up frequency and distance may be approved in the site operating plan.

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§330.147. Disposal of Large Items.

(a) Large, heavy, or bulky items, that cannot be incorporated in the regular spreading, compaction, and covering operations at landfills should be recycled. A special area should be established to collect these items. This special collection area must be designated as a large-item salvage area. The owner or operator shall remove the items from the site often enough to prevent these items from becoming a nuisance and to preclude the discharge of any pollutants from the area.

(b) Items that can be classified as large, heavy, or bulky can include, but are not limited to, white goods (household appliances), air conditioner units, metal tanks, large metal pieces, and automobiles.

(c) Refrigerators, freezers, air conditioners, and any other items containing chlorinated fluorocarbon (CFC) must be handled in accordance with 40 Code of Federal Regulations §82.156(f), as amended.

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§330.149. Odor Management Plan.

The site operating plan must have an odor management plan that addresses the sources of odors and includes general instructions to control odors or sources of odors. Plans for odor management must include the identification of wastes that require special attention such as septage, grease trap waste, dead animals, and leachate.

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§330.151. Disease Vector Control.

A site operator shall control on-site populations of disease vectors using proper compaction and daily cover procedures, and the use of other approved methods when needed. The general methods and performance-based frequencies for disease vector control must be specified in the site operating plan.

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§330.153. Site Access Roads.

(a) All-weather roads must be provided from the facility to access public roads and within the facility to the unloading area(s) designated for wet-weather operation. Tracked mud and associated debris at the access to the facility on the public roadway must be removed at least once per day on days when mud and associated debris are being tracked onto the public roadway. The methods for controlling mud and associated debris tracked onto public roadways must be specified in the site operating plan.

(b) Dust from on-site and other access roadways must not become a nuisance to surrounding areas. A water source and necessary equipment or other means of dust control approved by the executive director must be provided.

(c) All on-site and other access roadways must be maintained in a clean and safe condition. Litter and any other debris must be picked up at least daily and taken to the working face. Access roadways must be regraded to minimize depressions, ruts, and potholes. The frequency of regrading must be specified in the site operating plan.

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§330.155. Salvaging and Scavenging.

Salvaging must not be allowed to interfere with prompt sanitary disposal of solid waste or to create public health nuisances. Salvaged materials may be considered as potential recycled materials. The owner or operator shall remove the salvaged items from the facility often enough to prevent the items from becoming a nuisance, to preclude the discharge of any pollutants from the area, and to prevent an excessive accumulation of the material at the facility. Class 1 industrial and other special wastes received at the disposal facility must not be salvaged. Pesticide, fungicide, rodenticide, and herbicide containers must not be salvaged unless being salvaged through a state-supported recycling program. Scavenging must not be allowed.

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Effective March 27, 2006

§330.157. Endangered Species Protection.

A facility and the operation of the facility must not result in the destruction or adverse modification of the critical habitat of endangered or threatened species, or cause or contribute to the taking of any endangered or threatened species. Facilities must be operated in conformance with any endangered or threatened species protection plan required by the commission. The site operating plan should contain criteria for the protection of any identified endangered species.

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§330.159. Landfill Gas Control.

All landfill gases must be monitored in accordance with a landfill gas management plan in accordance with Subchapter I of this chapter (relating to Landfill Gas Management). The required reports and other submittals must be included in the operating record of the facility and submitted to the executive director.

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§330.161. Oil, Gas, and Water Wells.

(a) The facility operator shall provide written notification to the executive director of the location of any and all existing or abandoned water wells situated within the facility upon discovery during the course of facility development. The facility operator shall, within 30 days of such a discovery, provide the executive director with such notification and written certification that such wells have been capped, plugged, and closed in accordance with all applicable rules and regulations of the commission or other state agency. Any water well used for supply at the facility may remain in use as long as it is located outside the waste footprint, it is not impacted by landfill operations, it can be demonstrated that well design and installation will prevent any cross-contamination from the waste management unit to the water well production zone and between any water bearing zones, and an approved sampling plan to include frequency and parameters is in place. The executive director shall approve any well used to supply water at the facility that is located within the permit boundary.

(b) The facility operator shall provide written notification to the executive director of the location of any and all existing or abandoned on-site crude oil or natural gas wells, or other wells associated with mineral recovery that are under the jurisdiction of the Railroad Commission of Texas. The facility owner or operator shall provide the executive director with written notification of the location of any such well within 30 days after discovery during the course of facility development. Within 30 days after plugging of any such well, the facility operator shall provide the executive director with written certification that these wells have been properly capped, plugged, and closed in accordance with all applicable rules and regulations of the Railroad Commission of Texas. Producing crude oil or natural gas wells that do not affect or hamper landfill operations may be operated within the facility boundary, if identified in the permit for the facility or in a written notification to the executive director.

(c) Any water or other type of wells under the jurisdiction of the commission must be plugged in accordance with all applicable state requirements or additional requirements imposed by the executive director. A copy of the well plugging report required to be submitted to the appropriate state agency must also be submitted to the executive director within 30 days after the well has been plugged.

(d) The facility operator or owner shall submit for executive director approval a permit modification application identifying any proposed changes to the liner installation plan as a result of any well abandonment.

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§330.163. Compaction.

Solid waste must be spread and compacted by repeated passages of compaction equipment such that each layer of solid waste is thoroughly compacted. The methods for compaction must be specified in the site operating plan.

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§330.165. Landfill Cover.

(a) Daily cover for Type I and Type IAE landfills. Type I and IAE landfills must apply six inches of well-compacted earthen material not previously mixed with garbage, rubbish, or other solid

waste at the end of each operating day to control disease vectors, fires, odors, windblown litter or waste, and scavenging, unless the executive director requires a more frequent interval to control disease vectors, fires, odors, windblown litter or waste, and scavenging. Landfills that operate on a 24-hour basis must cover the working face or active disposal area at least once every 24 hours. The executive director may require a chemical analysis of any landfill cover material. Runoff from areas that have intact daily cover is not considered as having come into contact with the working face or leachate.

(b) Daily cover for Type IV and Type IVAE landfills. All Type IV facilities must follow the requirements of this section except the rate of cover must be no less than weekly, unless the executive director approves another schedule. The executive director may require a chemical analysis of any landfill cover material. Runoff from areas that have intact weekly cover is not considered as having come into contact with the working face or leachate.

(c) Intermediate cover. All areas that have received waste but will be inactive for longer than 180 days must provide intermediate or final cover. This intermediate cover must include six inches of suitable earthen material that is capable of sustaining native plant growth and must be seeded or sodded following its application in order to control erosion, or must be a material approved by the executive director that will otherwise control erosion. This intermediate cover must not be less than 12 inches of suitable earthen material. The intermediate cover must be graded to prevent ponding of water. Plant growth or other erosion control features must be maintained. Runoff from areas that have intact intermediate cover is not considered as having come into contact with the working face or leachate.

(d) Alternative daily cover. Alternative daily cover may only be allowed by a temporary authorization under §305.70(m) of this title (relating to Municipal Solid Waste Permit and Registration Modifications) followed by a major amendment or a modification in accordance with §305.70(k)(1) of this title. Use of alternative daily cover is limited to a 24-hour period after which either waste or daily cover as defined in subsection (a) of this section must be placed.

(1) An alternative daily cover operating plan must be included in the request for temporary authorization or in a site development plan that includes the following:

- (A) a description and minimum thickness of the alternative material to be used;
- (B) its effect on vectors, fires, odors, and windblown litter and waste;
- (C) the application and operational methods to be utilized at the site when using this alternative material;
- (D) chemical analysis of the material and/or the Material Safety Data Sheet(s) for the alternative material; and
- (E) any other pertinent characteristic, feature, or other factors related to the use of this alternative material.

(2) A status report on the alternative daily cover must be submitted on a two-month basis to the executive director during the temporary authorization period describing the effectiveness of the alternative material, any problems that may have occurred, and corrective actions required as a result of such problems. If no unresolved problems have occurred within the temporary authorization period, status reports may no longer be required.

(3) Alternative daily cover must not be allowed when the landfill is closed for a period greater than 24 hours, unless the executive director approves an alternative length of time.

(4) For contaminated soil proposed to be used as alternative daily cover in a municipal solid waste landfill, the constituents of concern shall not exceed the concentrations listed in Table 1, Constituents of Concern and Their Maximum Leachable Concentrations, located in §335.521(a)(1) of this title (relating to Appendices). Additionally, the contaminated soil must not contain:

(A) polychlorinated biphenyl wastes that are subject to the disposal requirements of 40 Code of Federal Regulations Part 761; or

(B) total petroleum hydrocarbons in concentrations greater than 1,500 milligrams per kilogram. The owner or operator may submit a demonstration for executive director approval that material exceeding 1,500 milligrams per kilogram (mg/kg) total petroleum hydrocarbons can be a suitable alternative daily cover. The demonstration shall include information regarding the risk to human health and the environment and the information required in paragraph (1) of this subsection. If approved, the executive director may impose additional permit requirements regarding the use of this material.

(5) Alternative daily cover must not exceed constituent limitations imposed on waste authorized to be disposed at the facility.

(6) The executive director may require the owner or operator to test runoff from areas that have alternative daily cover for compliance with Texas Pollutant Discharge Elimination System storm water discharge limits or manage the runoff as contaminated water.

(e) Temporary waiver. The executive director may grant a temporary waiver from the requirements of subsections (a) - (d) of this section if the owner or operator demonstrates that there are extreme seasonal climatic conditions that make meeting such requirements impractical.

(f) Final cover. Final cover for the landfill must be in accordance with the site closure plan and Subchapter K of this chapter (relating to Closure and Post-Closure).

(g) Erosion of cover. Erosion gullies or washed-out areas deep enough to jeopardize the final or intermediate cover must be repaired within five days of detection by restoring the cover material, grading, compacting, and seeding unless the commission's regional office approves otherwise, based on the extent of the damage requiring more time to repair or the repairs are delayed because of weather conditions. An eroded area is considered to be deep enough to jeopardize the final or intermediate cover if it exceeds four inches in depth as measured from the vertical plane from the erosion feature and the 90-degree intersection of this plane with the horizontal slope face or surface. The date of detection of erosion and date of completion of repairs, including reasons for any delays, must be documented in the cover inspection record required under subsection (h) of this section. The site operating plan must establish a frequency, and identify other occasions, for conducting inspections of the final and intermediate covers to detect the need for repairs. The periodic inspections and restorations are required during the entire operational life and for the post-closure maintenance period.

(h) Cover inspection record. Each landfill must keep a cover application record on site readily available for inspection by commission representatives and authorized agents or employees of local governments having jurisdiction. This record must specify the date cover (no exposed waste) was accomplished, how it was accomplished, and the last area covered. This applies to daily, intermediate, and alternative daily cover. For final cover, this record must specify the area covered, the date cover was applied, and the thickness applied that date. Each entry must be certified by the signature of the on-site supervisor that the work was accomplished as stated in the record. The cover inspection record must document inspections required under subsection (g) of this section, the findings, and corrective action taken when necessary.

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§330.167. Ponded Water.

The ponding of water over waste on a landfill, regardless of its origin, must be prevented. Ponded water that occurs in the active portion of a landfill or on a closed landfill must be eliminated and the area in which the ponding occurred must be filled in and regraded within seven days of the occurrence. A ponding prevention plan must be provided in the site operating plan that identifies techniques to be used at the landfill to prevent the ponding of water over waste, an inspection schedule to identify potential ponding sites, corrective actions to remove ponded water, and general instructions to manage water that has been in contact with waste.

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§330.169. Waste in Enclosed Containers or Enclosed Vehicles Accepted at Type IV Landfills.

Acceptance of waste in enclosed containers or enclosed vehicles at Type IV landfills must be in accordance with the following requirements.

(1) Waste in enclosed containers or enclosed vehicles must not be accepted at a Type IV landfill unless all of the following conditions have been met.

(A) The landfill to receive the waste must be participating in the funding program to monitor these activities as detailed in paragraph (2) of this section.

(B) Each enclosed container or enclosed vehicle must have all required approvals and/or permits from the executive director in accordance with §330.7 of this title (relating to Permit Required).

(C) Enclosed containers or enclosed vehicles must only be accepted at their designated time and on the specified day in accordance with this section, commission permits, or other orders of the commission.

(D) A commission inspector shall be on site and shall witness the unloading process to ensure that no putrescible waste or household waste is present. Any waste considered non-allowable by the inspector must be removed from the working face and subsequently from the facility in accordance with §330.133 of this title (relating to Unloading of Waste).

(E) Each transporter delivering waste in enclosed containers or enclosed vehicles must, prior to discharging the load, provide to the landfill operator a transporter trip ticket for the route being delivered. Trip tickets must be maintained as part of the operating record.

(F) The commission may revoke a transporter's authorization to deliver waste to a Type IV landfill for failure to comply with this chapter.

(2) The executive director shall determine the approximate annual costs of implementing and maintaining the surveillance and enforcement of all the activities associated with the acceptance of enclosed containers or enclosed vehicles at Type IV landfills.

(A) Notification of these costs will be provided to each affected holder of a Type IV landfill permit with notice of public hearing to apportion these costs.

(B) The public hearing will be held at a location to be determined by the commission with at least a 20-day advance notice. Notice will be provided to Type IV landfill operators by regular and certified mail.

(C) The public hearing will be for the purpose of establishing the total compensation and expenditures required to administer this program and the apportionment of those costs to the Type IV landfill operators to be reimbursed to the commission.

(D) Unless authorized by the executive director, the apportioned monthly payments will be due by the tenth day of each month.

(E) The apportioned costs to each Type IV landfill may be altered periodically to add or subtract landfills from the program. A 30-day notice will be provided to each participating Type IV landfill and/or proposed additional landfill and a hearing will be held, upon request, by one of the affected parties or on the commission's own motion.

(3) A Type IV landfill operator who is delinquent in making the monthly payment shall immediately halt acceptance of waste in enclosed containers or enclosed vehicles and may also be subject to other penalties allowable under state law.

(4) Stationary compactors permitted in accordance with §330.7 of this title (relating to Permit Required) and municipalities having transporter routes permitted in accordance with §330.7 of this title are exempt from the requirements of paragraphs (1) - (3) of this section. However, the landfill operator shall obtain from the transporter a hauler trip ticket for a municipal transporter route or stationary compactors, as appropriate, prior to allowing discharge of the material at the landfill. These trip tickets must be maintained as a part of the operating record.

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§330.171. Disposal of Special Wastes.

(a) Type IV and Type IVAE landfills may accept special wastes consistent with the limitations established in §330.5(a)(2) of this title (relating to Classification of Municipal Solid Waste Facilities) and the waste acceptance plan required by §330.61(b) of this title (relating to Contents of Part II of the Application).

(b) The acceptance and/or disposal of a special waste as defined in §330.3 of this title (relating to Definitions), that is not specifically identified in subsection (c) or (d) of this section, or in §330.173 of this title (relating to Disposal of Industrial Wastes), requires prior written approval from the executive director.

(1) Approvals will be waste-specific and/or site-specific and will be granted only to appropriate facilities operating in compliance with this chapter.

(2) Requests for approval to accept special wastes must be submitted by the generator to the executive director or to a facility with an approved plan and must include, but are not limited to, the following:

(A) a complete description of the chemical and physical characteristics of each waste, a statement as to whether or not each waste is a Class 1 industrial waste as defined in §330.3 of this title, and the quantity and rate at which each waste is produced and/or the expected frequency of disposal;

(B) for Class 1 industrial solid waste, a hazardous waste determination as required by §335.6(c) of this title (relating to Notification Requirements);

(C) an operational plan containing the proposed procedures for handling each waste and listing required protective equipment for operating personnel and on-site emergency equipment; and

(D) a contingency plan outlining responsibility for containment and cleanup of any accidental spills occurring during the delivery and/or disposal operation.

(3) A vacuum truck, as used in this section, refers to any vehicle that transports liquid waste to a solid waste disposal or processing facility. A vacuum truck must transport liquid waste to a landfill that has a sludge stabilization and solidification process or to a Type V processing facility for sludge, grease trap, or grit trap waste. The owner or operator shall submit written notification to the executive director of the liquids-processing activity as required in §330.11 of this title (relating to Notification Required).

(4) Soils contaminated by petroleum products, crude oils, or chemicals in concentrations of greater than 1,500 milligram per kilogram (mg/kg) total petroleum hydrocarbons; or contaminated by constituents of concern that exceed the concentrations listed in Table 1, Constituents of Concern and Their Maximum Leachable Concentrations in §335.521(a)(1) of this title (relating to Appendices) must be disposed in dedicated cells that meet the requirements of §330.331(e) of this title (relating to Design Criteria).

(5) The executive director may authorize the receipt of special waste with a written concurrence from the owner or operator; however, the facility operator is not required to accept the waste.

(6) The executive director may revoke an authorization to accept special waste if the owner or operator does not maintain compliance with these rules or conditions imposed in the authorization to accept special waste.

(c) Receipt of the following special wastes does not specifically require written authorization for acceptance provided the waste is handled in accordance with the noted provisions for each waste.

(1) Medical wastes that have not been treated in accordance with the procedures specified in Subchapter Y of this chapter (relating to Medical Waste Management) must not be accepted at a landfill unless authorized in writing by the executive director. The executive director may provide this authorization when a situation exists that requires disposal of untreated medical wastes in order to protect the human health and the environment from the effects of a natural or man-made disaster.

(2) Dead animals and/or slaughterhouse waste may be accepted at any Type I or Type IAE landfill without further approval from the executive director provided the carcasses and/or slaughterhouse waste are covered by three feet of other solid waste or at least two feet of earthen material immediately upon receipt.

(3) Regulated asbestos-containing material (RACM) as defined in 40 Code of Federal Regulations Part 61 may be accepted at a Type I or Type IAE landfill in accordance with subparagraphs (A) - (I) of this paragraph provided the landfill has been authorized to accept RACM. The facility operator proposing to accept RACM shall provide written notification to the executive director of the intent to accept RACM.

(A) To receive authorization to accept RACM, the owner or operator shall dedicate a specific area or areas of the landfill to receive RACM and shall provide written notification to the executive director of the area or areas to be designated for receipt of RACM. After initial authorization to receive RACM is issued, additional areas may be designated by providing written notice to the executive director.

(B) The location of the area designated to receive the RACM must be surveyed and marked by a registered professional land surveyor and identified on a current site diagram that is maintained at the landfill. A copy of the current site diagram identifying the RACM area must be submitted to the executive director immediately upon completion of the diagram. The operator shall maintain a record of each load of RACM accepted as to its location, depth, and volume of material.

(C) Upon closure of the unit that accepted RACM, a specific notation that the facility accepted RACM must be placed in the deed records for the facility with a diagram identifying the RACM disposal areas. Concurrently, a notice of the deed recordation and a copy of the diagram identifying the asbestos disposal areas must be submitted to the executive director.

(D) Delivery of the RACM to the landfill unit must be coordinated with the on-site supervisor so the waste will arrive at a time it can be properly handled and covered.

(E) RACM must only be accepted at the facility in tightly closed and unruptured containers or bags or must be wrapped with at least six-mil polyethylene.

(F) The bags or containers holding the RACM must be placed below natural grade level. Where this is not possible or practical, provisions must be made to ensure that the waste will not be subject to future exposure through erosion or weathering of the intermediate and/or final cover. RACM that is placed above natural grade must be located in the landfill unit such that it is, at closure of the landfill unit, not less than 20 feet from any final side slope of the unit and must be at least ten feet below the final surface of the unit.

(G) The bags or containers holding the RACM must be carefully unloaded and placed in the final disposal location. The RACM must be covered immediately with 12 inches of earthen material or three feet of solid waste containing no asbestos. Care must be exercised in the application of the cover so that the bags or containers are not ruptured.

(H) A contingency plan in the event of accidental spills (e.g., ruptured bags or containers) shall be prepared by the owner or operator prior to accepting RACM. The plan must specify the responsible person(s) and the procedure for the collection and disposal of the spilled material.

(I) RACM that has been designated as a Class 1 industrial waste may be accepted by a Type I landfill authorized to accept RACM provided the RACM waste is handled in accordance with the provisions of this paragraph and the landfill operator complies with the provisions of §330.173(g) - (i) of this title (relating to Disposal of Industrial Wastes).

(4) Nonregulated asbestos-containing materials (non-RACM) may be accepted for disposal at a Type I, Type IAE, Type IV, or Type IVAE landfill provided the wastes are placed on the active working face and covered in accordance with this chapter. Under no circumstances may any material containing non-RACM be placed on any surface or roadway that is subject to vehicular traffic or disposed of by any other means by which the material could be crumbled into a friable state.

(5) Empty containers that have been used for pesticides, herbicides, fungicides, or rodenticides must be disposed of in accordance with subparagraphs (A) and (B) of this paragraph.

(A) These containers may be disposed of at any landfill provided that:

- (i) the containers are triple-rinsed prior to receipt at the landfill;
- (ii) the containers are rendered unusable prior to or upon receipt at the landfill; and
- (iii) the containers are covered by the end of the same working day they are received.

(B) Those containers for which triple-rinsing is not feasible or practical (e.g., paper bags, cardboard containers) may be disposed of under the provisions of paragraph (6) of this subsection or in accordance with §330.173 of this title, as applicable.

(6) Municipal hazardous waste from a conditionally exempt small quantity generator may be accepted at a Type I or Type IAE landfill without further approval from the executive director provided the amount of waste does not exceed 220 pounds (100 kilograms) per month per generator, and provided the landfill owner or operator authorizes acceptance of the waste.

(7) Sludge, grease trap waste, grit trap waste, or liquid wastes from municipal sources can be accepted at a Type I or Type IAE landfill for disposal only if the material has been, or is to be, treated or processed and the treated/processed material has been tested, in accordance with Test Method 9095 (Paint Filter Liquids Test), as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (United States Environmental Protection Agency Publication Number SW-846), as amended, and is certified to contain no free liquids. Prior to treatment or processing of this waste at the landfill, the owner or operator shall submit written notification to the executive director of the liquids processing activity as required in §330.11 of this title.

(d) Used oil filters from internal combustion engines must not be intentionally and knowingly accepted for disposal at landfills permitted under this chapter except as provided in paragraphs (1) and (2) of this subsection.

(1) Used oil filters must not be offered for disposal by a generator and/or be intentionally and knowingly accepted for landfill disposal unless the filter has been:

(A) crushed to less than 20% of its original volume to remove all free-flowing used oil; or

(B) processed by a method other than crushing to remove all free-flowing used oil. A filter is considered to have been processed if:

(i) the filter has been separated into component parts and the free-flowing used oil has been removed from the filter element by some means of compression in order to remove free-flowing used oil;

(ii) the used filter element of a filter consisting of a replaceable filtration element in a reusable or permanent housing has been removed from the housing and pressed to remove free-flowing used oil; or

(iii) the housing is punctured and the filter is drained for at least 24 hours.

(2) Used oil filters (to include filters that have been crushed and/or processed to remove free-flowing used oil) must not be offered for landfill disposal by any non-household generator and must not be intentionally or knowingly accepted by any landfill permitted and regulated under this chapter.

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§330.173. Disposal of Industrial Wastes.

(a) Except as specified in subsection (c) of this section, Class 1 industrial solid waste shall not be disposed in a Type IAE landfill unit.

(b) Generators shall manifest Class 1 industrial solid waste as required by §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class 1 Waste and Primary Exporters of Hazardous Waste). Owners or operators of municipal solid waste landfill facilities shall not accept such wastes without prior written approval from the executive director and specific authorization in the permit.

(c) Wastes that are Class 1 only because of asbestos content may be accepted at any Type I or Type IAE landfill that is authorized to accept regulated asbestos-containing material (RACM) as stated in §330.171(c)(3)(I) of this title (relating to Disposal of Special Wastes). Authorization to accept this waste is implied in the authorization to accept RACM unless the acceptance of industrial wastes is prohibited by the permit. All Class 1 industrial asbestos wastes must be manifested and the owner or operator of the landfill facility shall comply with the requirements of subsections (g) and (h) of this section.

(d) Unless the facility permit authorizes the acceptance of a specified type of Class 1 industrial waste, an authorization to accept specific types of Class 1 wastes will be waste-specific and site-specific and will be granted only to appropriate facilities that are operating in compliance with this chapter. Requests for authorization to accept Class 1 solid wastes must be submitted in writing to the executive director and must include, but are not limited to, the following:

(1) a complete description of the chemical and physical characteristics of the waste in accordance with §335.587 of this title (relating to Waste Analysis), a statement as to whether or not the waste is a hazardous waste as defined in §330.3 of this title (relating to Definitions), and the quantity and rate at which the waste is produced and/or the expected frequency of disposal;

(2) an operational plan containing the proposed procedures for handling the waste and a listing of required protective equipment for operating personnel and on-site emergency equipment. This plan must become a part of the site operating plan; and

(3) a written contingency plan meeting the requirements of §335.589 of this title (relating to Contingency Plan). This plan shall become a part of the site operating plan.

(e) Unless specifically authorized by the facility permit, a Type I or Type IAE landfill facility permitted after October 9, 1993, may not accept Class 1 industrial solid wastes in excess of 20% of the total amount of waste (not including Class 1 wastes) accepted during the current or previous year. The amount of waste may be determined by volume or by weight, but the same unit of measure must be used for each year, unless a variance is authorized by the executive director.

(f) Any authorization to accept Class 1 waste is subject to the site operating in compliance with these rules and any specific conditions required under any letter(s) of authorization. Failure to operate the site in compliance with these rules or any special conditions imposed by the executive director may result in revocation of the authorization to accept a Class 1 waste.

(g) All shipments of Class 1 waste must be accompanied by a manifest (waste-shipping control ticket) as required by the commission. The facility operator or a designated representative shall sign the manifest for any authorized shipments of Class 1 waste. The facility operator shall not accept or sign for shipments of Class 1 waste for which the authorization to accept has not been granted by the executive director or has not been authorized by permit provisions. The facility operator shall retain the disposal facility copy of the manifest for a period of three years. This time period is automatically extended if any enforcement action involving the owner, operator, or landfill facility is initiated or pending by the executive director.

(h) A facility that accepts any Class 1 waste must submit to the executive director a written report of Class 1 waste received. This report must be submitted no later than the 25th day of the month following the month that the waste was received. Reports must be submitted on forms provided by the commission and must include all information required. Monthly reports must be submitted by facilities that have received Class 1 wastes including those months in which no Class 1 waste is received at the facility unless an exception is granted by the executive director. Failure to submit the reports required by this subsection in a timely manner is a violation of these rules.

(i) Class 2 industrial solid waste, except special wastes as defined in §330.3 of this title, may be accepted at any Type I or Type IAE landfill provided the acceptance of this waste does not interfere with facility operation. Type IV and Type IVAE landfills may accept Class 2 industrial solid waste consistent with the limitations established in §330.5(a)(2) of this title (relating to Classification of Municipal Solid Waste Facilities) and the waste acceptance plan required by §330.61(b) of this title (relating to Contents of Part II of the Application).

(j) Class 3 industrial solid waste may be disposed of at a Type I, Type IAE, Type IV, or Type IVAE landfill provided the acceptance of this waste does not interfere with facility operation.

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§330.175. Visual Screening of Deposited Waste.

Visual screening of deposited waste materials at a municipal solid waste facility must be provided by the owner or operator for the facility where the executive director determines that screening is necessary or as required by the permit.

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§330.177. Leachate and Gas Condensate Recirculation.

The owner or operator may recirculate leachate or gas condensate derived from a landfill unit into a Type I landfill unit at the same facility if the Type I landfill unit is designed and constructed with a leachate collection system and a composite liner. The owner or operator shall make the procedure for leachate or gas condensate recirculation a part of the site operating plan. The owner or operator is not required to characterize leachate and gas condensate that is being recirculated into an approved Type I landfill unit. The owner or operator is not required to characterize leachate and gas condensate sent to a publicly owned treatment works or Resource Conservation and Recovery Act authorized facility beyond that required by the treatment facility.

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§330.179. Operational Standards for Class 1 Industrial Solid Waste Management at a Municipal Solid Waste Type I or Type IAE Landfill Facility.

(a) The owner or operator of a municipal solid waste Type I or Type IAE landfill facility managing Class 1 industrial solid waste shall comply with the following requirements:

- (1) §335.585 of this title (relating to General Inspection Requirements);
- (2) §335.586 of this title (relating to Personnel Training);
- (3) §335.587 of this title (relating to Waste Analysis);

(4) §335.588 of this title (relating to General Requirements for Ignitable, Reactive, or Incompatible Wastes);

(5) §335.589 of this title (relating to Contingency Plan); and

(6) §335.590(25) of this title (relating to Operational and Design Standards).

(b) Nonhazardous industrial waste may be placed above natural grade provided that the conditions in §335.590(24)(F)(i) - (vi) of this title are met, except as provided in §335.590(24)(F)(vii) of this title.

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